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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/561,755	05/16/2006	Ralf Schmeling	18213	1610
25542	7590	08/10/2009		
CNH AMERICA LLC			EXAMINER	
INTELLECTUAL PROPERTY LAW DEPARTMENT			GARCIA, ERNESTO	
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NEW HOLLAND, PA 17557			PAPER NUMBER	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/561,755

**Applicant(s)**

SCHMELING ET AL.

**Examiner**

ERNESTO GARCIA

**Art Unit**

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 June 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 6-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

### **DETAILED ACTION**

The indicated allowability of claim 6 is withdrawn in view of the newly discovered reference(s) to LaBounty et al., RE35,432. Rejections based on the newly cited reference(s) follow.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Claim Objections***

Claims 6 and 7 are objected to because of the following informalities:

regarding claim 6, --a frame-- should be inserted after "comprising:" as the machine is being defined, "a frame of the machine" in line 3 should be --the frame--, "the" in line 4 should be --a--, and the first occurrence of "the" in line 8 should be --a--; and,

regarding claim 7, "of" in line 4 should be --on--, "component" in line 7 should be -components--, and "can slide" in line 8 should be --being slidable-- since it raises the question whether the boom components actually can slide. Appropriate correction is required. For purposes of examining the instant invention, the examiner has assumed these corrections have been made.

***Claim Rejections - 35 USC § 102***

Claims 6, 7, 9, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by LaBounty et al., RE35,432.

Regarding claim 6, LaBounty et al. disclose, in Figure 15, a construction machine comprising a frame **25**, a first boom component **22**, a second boom component **23**, a pin **24**, a third component **18.1**, and a bearing **58**. The first boom component **22** has a first end **28** rotatably mounted to the frame **25**. The second boom component **23** is articulated to a second end of the first boom component **22** by the bearing **58**. The bearing **58** has a bearing tube **58** having an internal diameter and an external diameter. The pin **24** extends in a direction of a swiveling axis of the bearing **58** and borne in the bearing tube **58**. The pin **24** has outer ends protruding from the ends of the bearing tube **58**. The third component **18.1** is borne on at least one outer end of the pin **24**. The external diameter of the bearing tube **58** is greater than the external diameter of the pin **24**. The first component **22** and the second component **23** are both borne alongside each other on the external diameter of the bearing tube **58**. The third component **18.1** transmits a force to the pin **24** and is rotatable with respect to the pin **24**, the first boom component **22**, and the second boom component **23**.

Regarding claim 7, the construction machine further comprises a first set of bearing points (the use of "points" in broad. LaBounty has linear and circumferential

contacts and made of points) on the first boom component located in contact with a middle of the bearing tube **58**. A second set of bearing points are on the second boom component located immediately outside of adjacent to the bearing points of the first component. The bearing points of both the first and second boom component are able to slide on the external diameter of the bearing tube.

Regarding claim 9, the second boom component **23** is inserted over the first boom component **22**.

Regarding claim 12, a ring 62 having a locking connector 63 is inserted over both ends of the pin 24 and maintains axial alignment of the components located therebetween.

***Claim Rejections - 35 USC § 103***

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over LaBounty et al., RE35,432, in view of Horton, 4,772,150.

Regarding claim 8, the bearing points of the second component are fitted with guide bushings **64, 69**. However, LaBounty et al. fail to disclose the bearing points of the first component fitted with guide bushings. Horton teaches, in Figure 2, a first component **16** with bearing points fitted with guide bushings **30** to reduce friction

between the first component **16** and a bearing **32**. Therefore, as taught by Horton, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the first component of LaBounty with guide bushings to reduce friction between the first component and the bearing.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over LaBounty et al., RE35,432, in view of Valori, GB-1,559,137.

Regarding claim 10, LaBounty et al., as discussed, fails to disclose the third component being an adjustment cylinder. Instead, the third component is a jaw. Valori teaches a rearrangement of components where the two jaws **21, 22** are considered the first and second boom components **21, 22** and the third component 14 is an adjustment cylinder so that all three components are pivotable with respect to each other at one bearing 33 using one adjustment cylinder for simplicity. Therefore, as taught by Valori, it would have been obvious to one of ordinary skill in the art at the time the invention was made to rearrange the configuration of LaBounty et al. with that of Valori so that the third component is an adjustment cylinder to move two boom components at one bearing.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over LaBounty et al., RE35,432, in view of Mieger et al., 6,385,872.

Regarding claim 11, LaBounty et al., as discussed, fail to disclose the external diameter of a mid-section of the pin being less than an external diameter at either end of the pin. Mieger et al. teach, in Figure 8, a mid-section of a pin being less than an external diameter at either end of the pin to increase the volume of the grease reservoir thus providing more grease in a pivot connection. Therefore, as taught by Mieger, it would have been obvious to one of ordinary skill in the art at the time the invention was made to place an annular groove in a mid-section of the pin such that the external diameter of the mid-section of the pin is less than an external diameter at either end of the pin in LaBounty et al. to increase the volume of the grease reservoir thus allowing for more storage of grease in the pivot connection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ernesto Garcia whose telephone number is 571-272-7083. The examiner can normally be reached from 9:30AM-6:00PM. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached at 571-272-7087.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/E. G./

Examiner, Art Unit 3679

August 7, 2009

/Daniel P. Stodola/  
Supervisory Patent Examiner, Art Unit 3679